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- Has failed to gain any understanding of, let alone solve, unexpected interference between full-power stations caused by ducting and other phenomena; and
- Has not even released its Report and Order outlining channel election procedures and its spectrum repacking plan, let alone completed the process for full-power stations.

The Commission should not be wasting even one minute contemplating low-power DTV when the full-power DTV transition continues to drift. What is worse, the same press reports indicate that the order under consideration would permit low-power and Class A stations to seek paired channels for DTV operations during the transition. Since the Commission has to date blocked full power broadcasters' attempts to gain paired channels for DTV, there is no way that it can justify giving this preferential treatment to the secondary low-power services. The American people are depending on the Commission to build the regulatory foundation for a vibrant and strong over-the-air DTV television service. So long as you insist on placing issues like low-power DTV higher on your agenda than the crucial issues listed above, you are not doing your job.

Let me be blunt: **low-power and Class A DTV stations will not advance the transition, period. Not a single American will be more likely to purchase a DTV receiver with an over-the-air tuner because the Commission permits low-power DTV operation.** At this point in the transition, the Commission simply does not have the time or the spectrum to waste on a low-power DTV service that will become viable only after the full-power DTV transition is complete.

The Commission's limited administrative and spectrum resources should be directed to the stations that can and will create incentives for consumers to purchase digital televisions so that markets can begin to achieve the 85% level of DTV tuner penetration necessary to bring about the end of the DTV transition. But the Commission has not devoted the resources necessary to ensure that every full-power station gets on the air with DTV. My company, Paxson Communications Corporation ("PCC") continues to have five mid-market stations that have not yet been granted a paired DTV channel. PCC has requested new channels for those stations, but the Commission has not granted those requests. Now I am to understand that the spectrum those stations might use to bring full-service DTV to their markets will instead be allotted in small pieces to low power and Class A stations? It is preposterous. PCC also has four stations in important markets including Detroit, Cleveland, Buffalo, and Denver that have not yet been granted even initial DTV construction permits. Now I am to understand that the Commission will be devoting its processing resources to evaluating the multitudes of low-power DTV applications that are sure to follow once the Commission allows paired-channel low-power operation? **In its comments in this proceeding, PCC cautioned the Commission against putting the low-power DTV cart before the full-power DTV horse. We never imagined that the Commission intended to put the cart on**

top of the horse. The Commission cannot believe that this type of upside down transition will ever work!

The Commission must reconsider this course. There are still a number of regulatory steps that the Commission can take that will advance the DTV transition, but assigning scarce and precious in-core spectrum to LPTV and Class A stations and granting them processing priority over pending requests for full-power paired channels and construction permits is not one of them. In its comments and reply comments in this proceeding, PCC outlined the regulatory steps that the Commission should complete before it adds new low-power DTV allotments to the transition's agenda. As described above, these include:

(1) FINALLY RESOLVING THE DTV MUST-CARRY DEBATE

- There is no single issue more important to accelerating the DTV transition than vindicating broadcasters' full statutory digital multicast must-carry rights. The potential benefits of this course are vast, increasing diversity, localism, decency, and competition in local television markets. These benefits would be achieved without placing unfair burdens on cable operators – indeed the long-term bandwidth benefits for cable operators would be immense. There is no justification for further delay and there is no excuse for solving any low-power DTV issue before settling this issue. **The Commission should order full digital multicast must-carry now!**

(2) AWARDING PAIRED DTV CHANNEL TO SINGLE-CHANNEL BROADCASTERS THAT DESIRE THEM

- Excluding the many stations that were not initially allotted DTV permits from participation in the DTV transition is not wise policy and allocating spectrum that could be used for paired full-power channels to allow transitional low-power operation is sheer insanity. PCC has five stations that have yet to be granted paired allotments despite PCC's repeated requests that these stations be permitted to participate fully in the DTV transition by constructing DTV facilities. There is simply no justification whatsoever for giving low-power and Class A stations preference for spectrum that could be allocated to paired channels for full-power stations.

(3) GRANTING PENDING DTV CONSTRUCTION PERMIT APPLICATIONS

- Even in major markets like Denver, Cleveland, Buffalo, and Detroit, the Commission has yet to grant many initial DTV construction permits. PCC has four ungranted construction permits, and strongly protests the dedication of the Commission's limited processing resources to low-power applications when so many full-power applications remain

unresolved. Instead of considering low-power applications, the Commission should be working aggressively with full-power stations to find solutions to these delayed applications.

(4) CONCLUDING AN AGREEMENT WITH THE CANADIAN AUTHORITIES GOVERNING POST-TRANSITION OPERATIONS

- Numerous stations across the country face an uncertain DTV future due to the Commission's failure to clarify the rules that will govern post-transition DTV operations in the border region. PCC itself has three stations, including one in the Cleveland market and another in the Detroit market, that have not yet been granted DTV construction permits because the Commission is not able to ensure that those stations will be permitted to replicate their analog service area with their DTV stations. Until these matters are resolved, there is no excuse for turning any attention to secondary low-power operations or for allotting channels in these markets to low-power broadcasters.

(5) RESOLVING UNEXPECTED DTV INTERFERENCE ISSUES

- Adding paired low-power channels is particularly inappropriate at this point because even most full-power stations are not operating with their maximum facilities, but instead are operating temporary low-power stations. Even in this environment, unexpected interference has emerged from Virginia to Michigan to California. PCC's Sacramento affiliate, KSPX-TV, has been the victim of interference from a San Francisco DTV station due to the ducting phenomenon. The Commission refused to solve that problem and PCC sees no evidence that the Commission has taken any steps to come to grips with these problems. The Commission has no idea what other unexpected interference will crop up if, as expected, it orders all stations to go to full power sometime next year. Throwing innumerable additional low-power stations into the mix at this point courts disaster. Such a course is not even preferable for the low-power stations themselves, which will be forced off the air after substantial investment if it turns out that they cannot coexist with full-power DTV stations.

(6) COMPLETING THE CHANNEL ELECTION AND SPECTRUM REPACK PROCESS

- PCC showed in its comments and reply comments that it would be folly to introduce new low-power DTV allotments before the channel election and spectrum repack process is complete. The Commission has announced that plans for this process are in place, but it has yet to release details. The fact that rules governing this process have been formulated, however, does not mean that the Commission can safely

begin allotting spectrum to low-power stations. That should not be done until the Commission is sure that its plan has worked and that every full-power station knows on what channel its permanent DTV operations will be. Only then will the Commission know where the gaps that will permit low-power operations will be, and only then will it become appropriate for the Commission to begin encouraging low-power stations to begin constructing DTV facilities.

If the press reports are correct and the Commission is considering an order that would permit low-power stations to apply for paired channels, you should send that item back to the Media Bureau and insist that it be changed so that no low-power DTV channels will be allotted until the six items listed above have been completed and the full-power DTV transition has moved substantially further towards completion. The DTV transition is not moving forward with any momentum at this point, and allotting paired low-power channels will only cause further delay and needless complications. **Until the Commission has completed these six tasks, it should not grant low-power stations paired channels for DTV operations. It's that simple. It's time for the Commission to get its focus back where it belongs: completing the full-power DTV transition and laying the regulatory groundwork for a robust post-transition full-power over-the-air DTV broadcasting system.**

Sincerely,

A handwritten signature in black ink, appearing to read "Lowell W. Paxson". The signature is fluid and cursive, with the first name "Lowell" and last name "Paxson" clearly distinguishable.

Lowell W. Paxson
Chairman and CEO
PAXSON COMMUNICATIONS CORPORATION

cc: Jon Cody
Stacy Robinson Fuller
Jordan Goldstein
Catherine Crutcher Bohigian
Johanna Mikes Shelton